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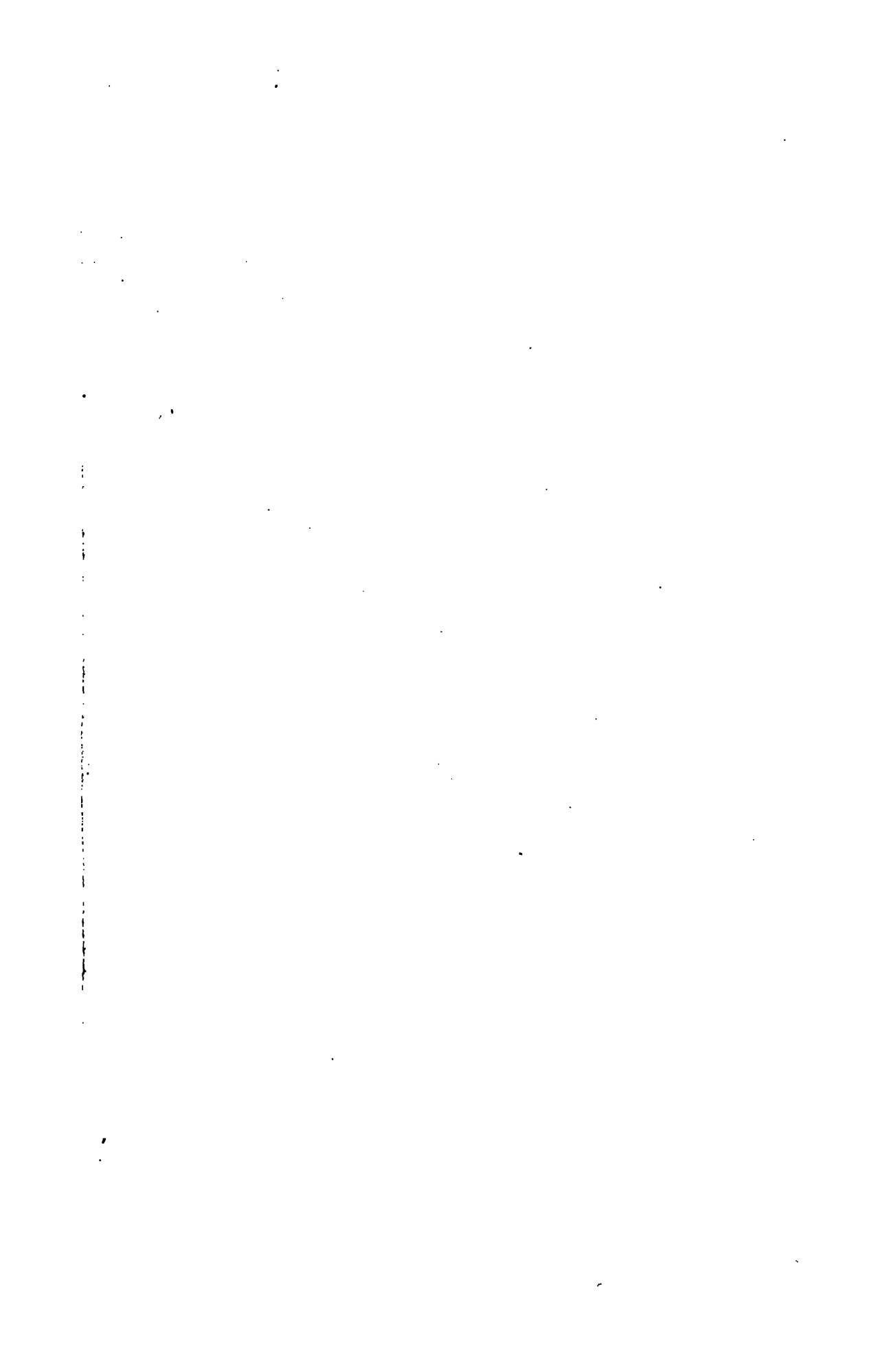
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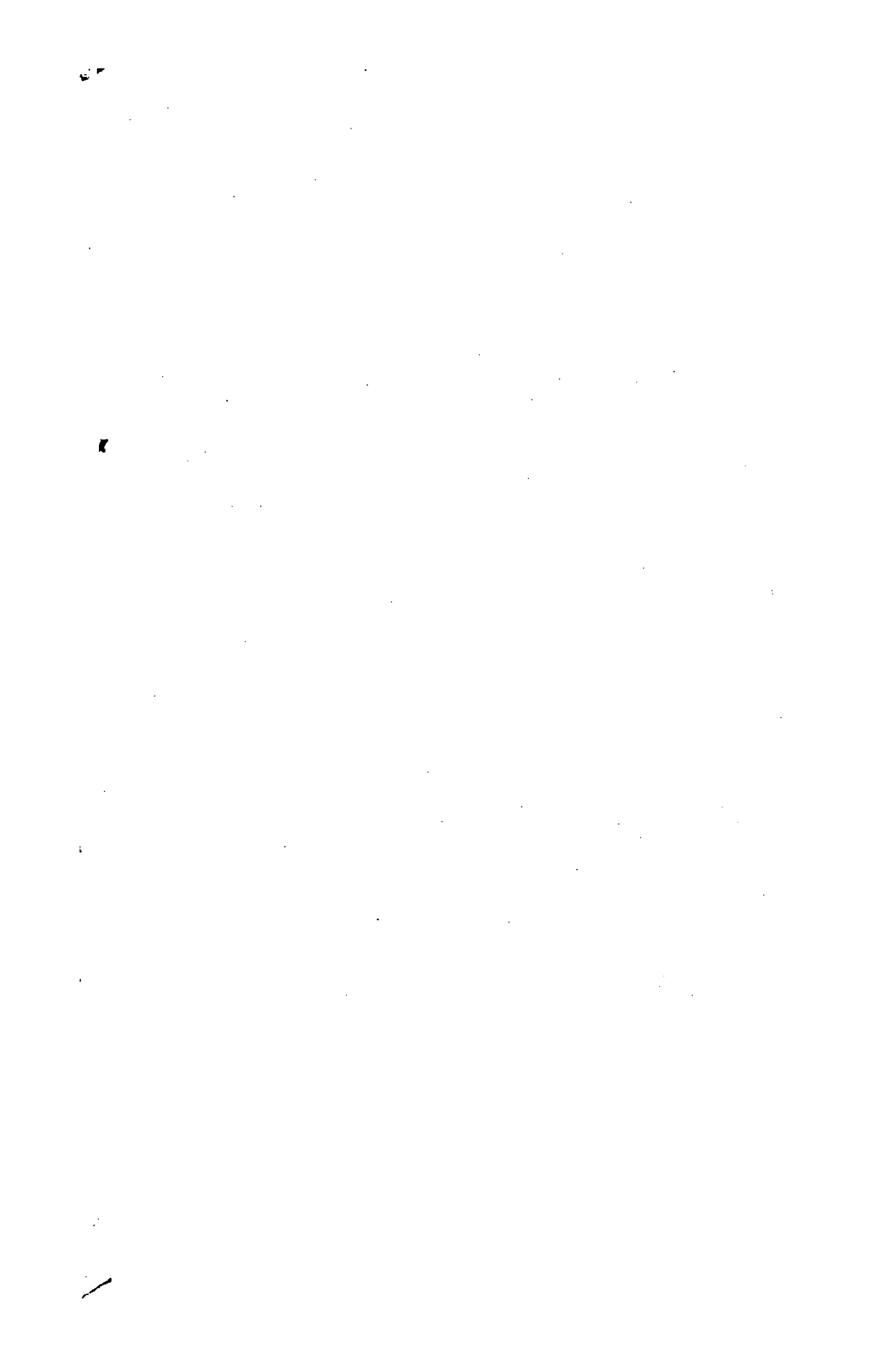
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Recorder of Boston

CRIMINAL TRIALS
IN THE
COURT OF ASSISTANTS
AND
SUPERIOUR COURT OF JUDICATURE
1630-1700
BY JOHN NOBLE



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NOTES ON THE TRIAL AND PUNISHMENT OF CRIMES IN THE
COURT OF ASSISTANTS IN THE TIME OF THE COLONY, AND
IN THE SUPERIOUR COURT OF JUDICATURE IN THE FIRST
YEARS OF THE PROVINCE.

To these Courts successively, the predecessors of the Supreme Judicial Court, belonged the exclusive jurisdiction over all the graver crimes.

The Court of Assistants seems to have been as old as the Colony itself, and to have exercised full judicial functions from the very outset.

The statements that have been made that the Court was established in 1639, that "the power of establishing Courts of justice was assumed by the colonists, without any grant of authority in their Charter," and that the Assistants "derived their judicial authority from legislative enactment," seem to be inaccurate, and to have been made on insufficient authority. They may have arisen from confusion of dates, from confounding different courts, and from hasty inferences.

At the outset, about all the functions of government, executive, legislative, and judicial, appear to have been exercised by the Magistrates, sitting as a Court of Assistants. This appears from the records, beginning with that of the first Court of Assistants, held 23 August, 1630, and from that time on. The action of the General Court was in the early days insignificant. The first record of its sitting is under the date of 19 October, 1630, and down to May, 1634, it met only four times thereafter, according to the records, while more than thirty Courts of Assistants were held.

Down to 1660, there is no separate or specific law to be found creating or establishing the Court of Assistants, or defining its powers or the extent of its jurisdiction. During that period of thirty years it had exercised all the powers and extended its jurisdiction over every matter falling within the province of that Court

specified in the Laws of 1660; and from the trial of Walter Palmer for homicide before a jury of twelve men, 9 November, 1630, it had continuously tried cases of "life, member, and banishment," and a few of "divorce." Its jurisdiction is indicated also by the laws establishing or defining the inferior courts. The act of 3 March, 1635-6, provides for "Foure courts kept eūy quarter," at Ipswich, Salem, New Town, and Boston, to "trie all civill causes, whereof the debt or damage shall not excede X^l, & all criminall causes not concerneing life, member, or banishm^t," with a right of "appeale to the nexte greate Quarter Court." The act of 9 September, 1639, establishes "Speciall Courts," in consequence of the increase of "the businesses of the ordinary Court of Assistants," to be held quarterly by "such of the Magistrats as shall reside in or near to Boston, or any 5, 4, or 3 of them, the Governo^r or Deputie to bee one," with powers substantially the same as the County Courts last mentioned. There were also the Strangers' Court and other small Courts established at different times. Though the Magistrates sat in the County Courts and others, these are not to be confounded, as they have sometimes been, with the regular Courts of Assistants.

The acts relating to the Court of Assistants seem to be declaratory, recognizing its existence and the extent of its jurisdiction, and merely regulating its terms.

The act of 3 March, 1635-6, provides that "There shalbe foure greate Quarter Courts kept yearely att Boston, by the Goūn^r, & the rest of the Magistrates," fixing the terms.

By the act of 17 October, 1649, the number of terms was reduced from four to two; and this last act is embodied in the Laws of 1660, — which in the Chapter on Courts fixes the terms and states the powers of the Court of Assistants, as follows: —

"For the better administration of justice, & easing of the Country of unnecessary charges and travaile, — It is Ordered by this Court and the Authority thereof, That there be two Courts of Assistants yearely kept at Boston by the Governour, Deputie Governour, and the rest of the Magistrates, on the first Tuesday of the first month, and on the first Tuesday of the seventh Month, to heare and determine all and onely actions of appeale from inferiour Courts; all Causes of divorce, all Capital and Criminal causes, extending to life, member or banishment. And that justice be not deferred, nor the Country needlessly charged,

It shall be lawful for the Governour, or in his absence the Deputie Governour (as they shall judge necessary), to call a Court of Assistants for the tryal of any Malefactor in Capital Causes."

The exercise of these powers and this jurisdiction from the beginning of the Colony uninterruptedly appears from the records of the Court itself so far as extant, and from numerous papers found among the early Suffolk Files now in process of arrangement. It is also repeatedly recognized in the records of the General Court.

That separation of the government into different branches, — executive, legislative, and judicial, — which resulted in the Court of Assistants becoming a purely judicial body, took place gradually.

The legislative function of that Court may be said to have been surrendered by agreement amongst the Magistrates and Freemen at the General Court in May, 1634; but the executive function continued to be exercised by it, with more or less frequency, for some years. In fact, it was as late as 1650 that the Magistrates sitting as a Council first began to have a separate record.

There was nothing for a long time that could properly be called a Criminal Code, except so far as that part of the "Body of Liberties," so called, of 1641, which related to criminal matters, and which was founded upon the Word of God as evidenced in the Scriptures, could be so designated.

The Colonists brought with them, of course, that habit of legal practice in matters of form and detail which they had acquired as Englishmen, and in which some of them had been specially educated. There was also the limitation in the Charter that no laws should be made repugnant to the laws of England. This limitation was but little regarded, and seems to have been construed to mean simply that no such laws should be passed as would be hostile to the government of England, or subversive of those great fundamental principles of English law which were considered to be the birthright of every Englishman, — such, for instance, as the right to trial by jury. Beyond these limitations, so construed, and aside from those methods of procedure which they naturally adopted by force of English habit of mind, the Court of Assistants recognized no other source of law than such as they could find in the Holy Scriptures, as interpreted by themselves, — or as embodied in legis-

lative enactments of the General Court, sometimes with the advice of the Elders of the churches.

From time to time, as it appears by the Colonial records, committees were appointed to make a draught of laws: 6 May, 1635, "of such lawes as they shall judge needfull for the well ordering of this plantacōn," — 25 May, 1636, "of lawes agreeable to the word of God, wth may be the Fundamentalls of this Co^monwealth," — while "in the meane tyme the Magistrates and their associates shall pceede in the Courts to heare & determine all causes according to the lawes nowe established, & when there is noe lawe, then as neere the lawe of God as they can," — and so on at different times thereafter.

Meantime the Magistrates seemed inclined to the policy of letting laws "arise *pro re nata* upon occasions," and "to raise up laws by practice and custom."

Then came the Body of Liberties in 1641, and the Codes of 1649, 1660, and 1672. The punishments inflicted appear in the records of the cases tried by the Court. The penalty imposed upon adultery is rather curious in its history. At a trial in the Court of Assistants, 6 September, 1631, where the offender is sentenced to be "seuerely whipped," "it is p^pounded with' adultery . . . shall not be punished wth death. Referred to the nexte Court to be considered of."

At the second Court thereafter, 18 October, 1631, it is ordered that where committed "with another man's wife, they both shalbe punished with death."

Then at a General Court, 12 March, 1637-8, "The law against adultery made by the p^ticular Court in October, 1631, is confirmed;" and at a General Court, 7 October, 1640, "The first law against adultery, made by the Courte of Assistants @ 1631, is declared to bee abrogated; but the other, made the first m^o 1637 or 1638, by the Generall Court, to stand in force." The reason of this legislation is perhaps apparent enough without further explanation, — namely, to make the infliction of capital punishment for this offence rest for its validity upon an enactment of the General Court, rather than upon an enactment by the Court of Assistants. The history of this action as to the punishment for adultery is not only curious, but also most important and suggestive.

This with many other points will be more largely dealt with in the volume of the Records of the Court of Assistants, referred to below, in which the history of this Court, its functions and jurisdiction, will be considered. The list of capital crimes in the Body of Liberties is long,—heresy or idolatry, witchcraft, blasphemy, murder, poisoning, bestiality, sodomy, adultery, man-stealing, perjury against life, and treason,—and it is lengthened in the Code of 1672. Certain safeguards are provided as to the trials and execution of sentence. Banishment, dismembering, and branding were prescribed and inflicted for certain offences. The wearing of a letter or other badge of ignominy does not seem to be prescribed by law, but was a penalty not unfrequently imposed by the courts.

In the early days of the Province the penalties prescribed by the laws were not essentially changed; the list of capital crimes is increased somewhat, branding and dismembering continued, and the wearing of a letter prescribed for certain offences; as in the case of adultery, after being set on the gallows and whipped, the offenders “shall forever after wear a capital A, of two inches long and proportionable bigness, cut out in cloth of a contrary colour to their cloaths, and sewed upon their upper garments, on the outside of their arm, or on their back, in open view,” &c.; and similarly the use of the letter I, in case of incestuous marriages or practices. Some of these laws were disallowed, however, by the Privy Council.

Under the Province, the successor of the Court of Assistants was the Superiour Court of Judicature, established by the act of 25 November, 1692. This act was subsequently disallowed, for certain reasons, by the Privy Council, 22 August, 1695,—a disallowance not known in Boston till 12 July, 1696.

Various acts subsequently passed were in like manner disallowed, until the act of 26 June, 1699, established the Court anew.

The records of the Superiour Court of Judicature from 1692 to the establishment of the Supreme Judicial Court, its successor under the Constitution, are full and complete, and in perfect preservation among the records of the latter Court in Suffolk County. Of the records of the Court of Assistants only the second volume, from 1673 to 1692, is extant. It is to be found in the same place also in perfect preservation.

The earlier records, so far as any complete volume is concerned, have been missing beyond the memory of man.

From the first Court held, 23 August, 1630, down to October, 1641, they are to be found in the Massachusetts Colony Records, and from the last date down to 5 March, 1643-4, in the "Barlow Copy," now owned by the Boston Public Library.¹

Much material has already been collected from various sources, mainly from the Court Files of the several Counties of the Commonwealth, which, to a certain extent, will fill this intervening gap of thirty years; and I have now in preparation a volume which is intended to contain all the Records of this Court, so far as they have been recovered or can be reproduced.²

Following is a list of cases tried by the Court of Assistants, with the punishment imposed by sentence, arranged according to the latter:—

BRANDING.

4 Sept., 1632. Richard Hopkins, "for selling peeces & powder & shott to the Indeans." To be "seuerely whipt, & branded with a hott iron on one of his cheekes." (M. C. R., page 99.)

"ppounded if this offence should not be punished hereafter by death." "Referred to the nexte Courte to be determined." (Legislation, 17 May, 1637, in M. C. R., page 196.)

3 Oct., 1632. Nicholas Frost, — "for thefte," &c., "drunkenes and fornicacōn," — "fined," "seuerely whipt, & branded in the hand with a hott iron, & after banished out of this pattent." In case of return, "hee shalbe putt to death," &c. (Page 100.)

Subsequently, 3 Nov., 1635, imprisoned till trial for breach, 1 March, 1635-6, forfeited his recognizance, 5 April, 1636, bound over "to appeare . . . upon sumōns." (Pages 155, 164, 172.)

6 Oct., 1635. Robte Scarlett, "a knowen theife," "shalbe seuerely whipt & branded in the forehead with a T," and his master enjoined to send him "out of this jurisdicōn." (Page 163.) Subsequently, 28 Oct., 1636, on "hope of amendment, hee is admited to stay." (Page 183.)

¹ For an account of this volume and a transcript of its unique passages, see William H. Whitmore's "A Bibliographical Sketch of the Laws of the Massachusetts Colony," etc. Boston, 1890.

² Mr. Noble, as Clerk of the Supreme Judicial Court for the County of Suffolk, is the official custodian of the Suffolk Court Files.

19 Sept., 1637. William Brumfeild, "for his stealeing, plotting to run from his m^r, lying, drunkennes & idlenes," "censured to make double restitution, to bee branded, & bee seuerely whiped." (Page 203.)

1681. George Fairfax. "Burglary, stealing, running away from his Master," "to be branded in the forehead wth the letter B & be seuerely whipt," &c. (Rec. Ct. of A.)

12 Nov., 1683. Leonard Pomeroy. "Murder," — "found guilty of manslaughter," — "to be burnt in the hand & forfeit his Goods & chattell," — "y^e executioner executed the sentence in y^e face of the Court." (*Ibid.*)

Sept., 1685. Uriah Clements. Burglary, "to be branded with the letter B. on y^e forehead & have his Right eare cutt of." For a second burglary subsequently sentenced "to be branded wth letter B on his forehead & have his left eare cutt of." (*Ibid.*)

WEARING PAPERS AND OTHER BADGES OF IGNOMINY.

3 Sept., 1633. Robt^e Coles. "Fyned X^l, & enjoyned to stand wth a white sheete of pap on his back, wherein a drunkard shalbe written in greate tres, & to stand therewth soe longe as the Court thinks meete, for abuseing himselfe shamefully wth drinke, intising Iohn Shotwell's wife to incontineney, & other misdemean^r." Had been previously fined in 1631 and 1632 for drunkenness.

4 March, 1633-4, "for drunkenes," "shalbe disfranchised, weare about his necke, & soe to hange upon his outward garm^t a D, made of redd cloath & sett upon white; to continue this for a yeare, & not to leave it of att any tyme when he comes among company, under the penalty of xl^l for the first offence & v^l the second, & after to be punished by the Court as they thinke meete; also he is to weare the D outwards & is enjoyned to appeare at the nexte Geñall Court, & to contynue there till the Court be ended."

14 May, 1634. "The sentence . . . is nowe reversed, vpon his submission and testimony being giuen of his good behav^r."

4 March, 1634-5. Ordered at a General Ct that he "shall not pay more of his Fyne of X^l, for drunkenes, &c., than hath bene already levyed in strong water." (M. C. R., pages 107, 112, 118, 139.)

5 April, 1636. Wittm Perkins. "Drunkenes & other misdemean^r," to "stand att the nexte Geñall Court one houre in publique vewe with a white sheete of pap on his brest, haveing a greate D made vpon it," &c. (Page 172.)

6 Sept., 1636. Edward Woodley, "for attempting a rape, swearing & breaking into a house," "to be severely whiped 30 stripes, a yeares imprisonment, & kept to hard labo^r, wth course dyot, & to weare a collar of yron." (Page 177.)

A part of sentence subsequently remitted. (Page 193.)

5 March, 1638-9. John Davies, "for grosse offences in attempting lewdness wth divers weomen," "to bee severely whiped" "& to weare the letter V. vpon his breast, vpon his vppermost garment, untill the Court do discharge him." (Page 248.)

3 Sept., 1639. "Vpon his good carriage, was discharged from wearing the V." (Page 268.)

Richard Wilson "for stealing," &c., "to bee put fourth to service for 3 or 4 yeares, except he can procure X^l; also hee is to have a T set vpon his vpmost garment." (Page 268.)

3 Dec., 1639. "Elnor Peirce her husband was bound in 10^l for her good behavio^r, & to bring her to stand in the market place the next market day wth a paper for her light behavio^r."

— Quick. Same sentence for same offence. Margaret Hindersam the same. (Page 284.)

1 June, 1641. Davy Hickbourne, "for his grosse misdemeano^r & foule miscarriage," "to be severely whiped, to weare an iron coller till the Co^t please & serve his master," &c. (Page 318.)

7 Sept., 1641. Thomas Owen "for his adulteros practises" "to be sent to the gallos wth a roape about his neck, & to sit upon the lather an houre, the roapes end throwen over the gallos, so to return to prison."

Sara Hales "for her miscarriage" a similar sentence, "& after to bee banished." (Page 335.)

7 March, 1642-3. Sentence for attempted bestiality was "to bee carried to place of execution & there to stand with an halter about his necke & to bee severely whipped." (Whitmore's Transcript of the "Barlow Copy," p. xxxi.)

7 June, 1642. Thomas Scot & wife, "fornication before marriage," "to stand an ho^e vpon 16th present in the market place, with each of them a paper with great letters on their hatts." (*Ibid.*, p. xxxiii.)

1 Nov., 1654. Edw^d Sanders. "Rape, tried in Ct. of Assistants in April; Jury and Magistrates not agreeing in the verdict, case went to

Gen. Ct. which found him not guilty of death, but deserving a high and severe censure; sentenced to be whipt and henceforth to wear a rope about his neck hanging down two feet long, to continue during Court's pleasure; if found over forty rods from his own house without the rope to be whipt for each offence." (Gen. Ct., M. C. R.)

11 March, 1673. Ruth Reed, attempted imposition of illegitimate child on her husband. Sentenced, if found in Colony two months after date, to stand "in the market place on a stoole for one hower wth a paper on hir breast wth ye Inscription," &c. (Rec. Ct. of A.)

1674. Anne, Negro. "Committed for having a bastard child & being under sore suspition of making it awaye," &c. Indictment for murder. Verdict, "Guilty of having a Bastard Child & privately conveyed it away." "Sentent to stand on the Gallowes wth a Roape fastened about hir Necke to the Gallowes for one hower," "to be tyed to & whipt at the Carts Tayle to the prison wth thirty stripes," &c.

1675. Maurice Brett, indicted for adultery, found "not legally Guilty, but Guilty of very filthy carriage," &c. Sentenced to stand on the Gallowes "wth a roape about his neck," "whipt at the Carts Tayle," &c., and "banished." Mary Gibbs, the co-defendant, same sentence, except banishment.

13 Sept., 1675. Thomas Davis. Adultery. Verdict, "Not Guilty legally according to indictment, but found him Guilty of very Suspitious Acts leading to Adultery." Similar sentence, except banishment. The co-defendant the same.

1676. Peter Cole and Sarah Bucknam. Same offence, result, and sentence.

1677. Darby Bryan "chose to be tried by the bench," and co-respondent, Abigail Johnson, same. Sentenced to stand on the gallows "wth a roape about neck" and to be whipped at the cart's tail.

Ephraim Beamis, "witting and willing trepanning and pandering," &c. Similar sentence.

1683. Joshua Pike and co-respondent Elizabeth Crockett, adultery. Same result and sentence.

1684. Philip Darland and Mary Knights. Same.

12 NOTES ON THE TRIAL AND PUNISHMENT OF CRIMES.

16 Oct., 1691. Martin Williams, "a stranger," passing counterfeit money, "to stand three Several lecture days in Boston in the Pillory, one houre each time, after the lecture, wth a Paper signifying his crime," &c.

DISMEMBERING OR MUTILATION.

14 June, 1631. Phillip Ratcliffe "shall be whipped, haue his eares cutt of, fyned 40^l and banished out of y^e lymitts of this iurisdicōn, for vttering mallitious & scandulous speeches against the goūm^t & the Church of Salem," &c. (M. C. R., page 88.)

13 May, 1640. James Luxford, "for his forgery, lying & other foule offences," "to bee bound to the whiping poast, till the lecture from the first bell, & after the lecture to haue his eares cut of; & so hee had liberty to depart out of o^r iurisdiction." (M. C. R., p. 295.)

1675. Maurice Brett, "for his contemptuous carriage confronting the sentence, [for adultery to wear the rope, be whipped, and banished, see *supra*,] to stand in the pillory, . . . his eare nayled to y^e pillory & after an hours standing there to be cut of," and also fine and whipping.

1679. Peter Lorphelin, "Frenchman," "being Accused for Rash Insulting Speeches in the time of the late Conflagration thereby Rendring himself Justly suspitious of having a hand therein," was committed, and being examined "his chest & writtings" were ordered to be searched, and suspicious articles being there found, was sentenced "to stand upon the pillory two howers & then to haue both you^r eares cutt off by the executioner and to give bond," &c., "w^{ch} sentence was executed Accordingly."

1684. Joseph Gatchell, Blasphemy, "to stand in pillory, haue his head and hand put in & haue his tounge drawne forth out of his mouth, & peiret throuh wth a hott iron." "The Marshall General taking necessary help with him to see y^e execution of y^e sentence performed."

1685. Uriah Clements (*supra*, under Branding), after that "to haue his Right eare cutt of," and for a second offence "his left eare," &c.

DEATH.

4 Dec., 1638. Dorothy, the wife of John Talbie, "unnatural & vntimely death of her daughter," "to bee hanged." (M. C. R., p. 246.)

10 Dec., 1641. William Hatchet. "Beastuality," "to bee hanged, & the Cowe to bee slayne & burnt or buried." (M. C. R., p. 344.)

5 March, 1643-4. James Brittain and Mary Latham. Adultery, both "condemned to death." (Barlow, p. xlii.)

1673. Benjamin Goad. Beastiality. Special Verdict: "If the prisoner's confession ag^t himself vpon his first apprehention and before his trial together with one evidence be sufficient for legal conviction, then we find him guilty according to the Indictment; otherwise not guilty of the fact but of a most horrid attempt," &c., "w^{ch} we leave to the determination of the Honored Court." Magistrates found him "Capitally Guilty." Sentenced to be hung, "w^{ch} was done accordingly." (Rec. Ct. of A.)

1674. Tom Indian. Rape. Sentenced to be hung.

Robert Driver. Murder of his master. Sentence given verbatim, and in same form as now used.

Nicholas Faevor. Same matter.

1675. Peter Rodjago (Dutchman), John Roads, Richard Fowler, Peter Grant, Randolph Judson. Piracy. Sentenced to be hung.

17 Sept. Samuel Guile. Rape, "be hang^t till you be dead," &c. "W^{ch} was accordingly doun, Oct. 16, 1675."

21 Sept. Several Indians indicted for "y^e murder of those at Nash-away." Six found not guilty. Several ordered "to be sent away," and one, "Litle Jn^o Indian y^t came as a messenge^r from being proved to be a murderer of the English in y^e Warr was Condem^d to be hanged & was executed accordingly."

1676. Stephen Goble, Dan^l Goble, Nath^l Wilder, and Daniel Hoare. Murder of three Indian women and three Indian children. Sentenced to be hanged.

Basto, Negro. Slave, &c. Rape on his master's daughter of three years. Sentenced to be hanged.

1681. Marja, Negro, serv^t of John Lambe. Arson. "Pleaded & acknowledged herself to be Guilty of y^e Fact." Sentence of death; to be burnt at place of execution. See *infra*.

Cheffaleer Jack, Negro, servant, &c. Arson. "To be hanged & then taken down & burnt to ashes in the fier with Marja Negro."

William Cheny. Rape on his servant. Sentenced to be hanged.

"Secretary ordered to issue out warrants to the Marshal General for the execution of these three on the next lecture day presently after the lecture according to their sentences."

1685. James Morgan. Murder. Sentenced to death.

1689. Hugh Stone. Murder of wife. Sentenced to death.

3 Jan., 1689-90. Thomas Hawkins. Piracy in Massachusetts Bay three leagues from Half Way Rock.

Thomas Pound, Thomas Johnston, Eleazer Brick. Piracy in Vineyard Sound.

John Sickterdam, William Dunn, Richard Griffin, Dan^l Lander, W^m Warren, Sam^l Watts, W^m Coward. Peleg Heath, Thomas Storey, Christopher Knight, — some of them for Piracy and Murder, — all sentenced to death.

1691. Elizabeth Summerson. Murder of her illegitimate twins. Sentenced to death.

IN THE GENERAL COURT, 12 MARCH, 1687-8.

"Ordered that the 3 Adulterers, John Hathaway, Rob^t Allen & Margareet Seale, shalbe severely whiped, & banished, never to returne againe, vpon paine of deathe."

COURT OF ASSISTANTS.

SOME MISCELLANEOUS SENTENCES.

1676. Jⁿ Flynt. Indicted for murder. Verdict of manslaughter. Fined 20£ to County, 20£ to the father.

Peter Bent. Murder. Verdict: "Killing by Chanc Medleing, by Casualty." 10£ to County, 20£ to widow.

Sam^l Hunting. Murder. Verdict of Manslaughter. 20£ to widow, 5£ to County.

1680. John Dyer. Murder of an Indian. "Manslaughter." "Sixe pounds to widow," "i. e. 20s downe, in or as money — & 20s more for five years successively."

1683. Elizabeth Payne. Murder of her illegitimate child. Found "greatly negligent," &c., "to be whipt 30 stripes for her fornication."

James Fuller, "being led by instigation of the divill did wickedly call upon or pray to the Divill for helpe, & hath at seuerall times had familiarity wth him." "Not guilty according to the Indictment," but "considering of his wicked & pernicious willfull lying & continuance in it till now putting the country to so great a charge." Sentenced to fine, 30 stripes, 5£ for charges, and in default of payment "left to Treasurer of y^e Country to ship him of & dispose of him as he can, not exceeding foure yeares."

William King. Blasphemy. Evidence of madness. 20 stripes given.

1678. Bethyah Getchell. Adultery. "Not guilty according to indictment, . . . but enjoyned to appeare before next County Court," &c., "to answer for her notorious lying."

1676. Walter Gendall. "Endeavoring to betray the inhabitants into the hands of the enemy in time of y^e Indian War"; to "run the Gantelop through the Military Companies in Boston wth a roape about his necke, — forfeit all his lands, — and be banished, on penalty of perpetual imprisonment if he returne."

John Watts. Same, and "trading powder to the Indians," — "to run the Gautelop," &c., "bond of 100£."

1680. Thomas Davis and Jn^o Eggington. "Convicted of being two incorrigible theeves & Robbers," "also for many reiterated Oaths & cursings of themselves & others"; "threatening if loose to burne the Towne," &c. Sentenced to 20 stripes, and to be returned to prison; afterward breaking prison, and stealing again, "to restore treble damages," &c., and in default, "to be sold & sent to any of the English Plantations — & return no more on payne of death."

SPECIAL COURT, 1686-1687.

Peleg Heath, — "felonious stealing," &c., — "pleaded guilty & praying the benefitt of Clergie was called to the booke & reading was burned in the left hand with y^e letter T."

Richard Hulins, John Stickey, Thomas Waters, William Hawkins, Joseph Aramatu, similarly punished.

Charity Williams, "Stealing goods," "pleaded guilty, praying the Benefit of the Statute of Jacobi in favour of women committing small felonies," was burned in left hand with letter T.

Mercy Windsor similarly punished.

John Neponet alias Nemasit. Murder. Sentence of death.

Thomas Waters, second offence, benefit of clergy not allowed. Sentence of death. Third offence had sentence as above.

SUPERIOUR COURT OF JUDICATURE.

DEATH.

1692. Vol. I. Records. There are several trials for Witchcraft recorded in full, and of extreme interest. In three of these there is a verdict of guilty, and the ominous conclusion: "The Court Ordered the Keeper of the Goale to take care of the Prisoner, Aording to Law."

10 Jany. Sarah Wardwell. (Page 14.)

11 " Elizabeth Johnson, junior. (Page 18.)

11 " Mary Post. (Page 21.)

25 Apr., 1693. Elizabeth Emerson, convicted of Murder in 1691, and sentence of death ordered but not pronounced, "brought to the Barr" and sentence passed. (Page 50.)

Grace, a Negro. Murder. Death. (Page 51.)

Jan., 1693-4. Jacob, an Indian man. Murder. Death. (Page 94.)

1694. "Zachalenaco, otherwise called Zechariah, an Indian man of Kycomocho in the County of Suffolk." Murder. Death. (Page 100.)

1695. Joseph Hyde, an Indyan. Murder. Death. (Page 149.)

1696. Susanna Andrews. Murder. Death. (Vol. II. p. 49.)

John and Esther Andrews, parents of above, "were found guilty of death and so pronounced, as accessory," &c.

1698. Sarah Smith. Murder. Death. (Page 193.)

Sarah Threeneedles. Murder. Death. (Page 199.)

BRANDING.

1693. Samuel White. Robbery. "To be branded in the Forehead the letter B," treble damages, costs, &c. (Vol. I. p. 73.)

SOME MISCELLANEOUS SENTENCES.

1693. Nathaniel Blackledge and John Chester. Forgery of Certificate. Fined. "Thes Fines were ordered to be received by the Clerk to buy seale & book of Record for the Court." (Page 52.)

1694. Hannah Newell. "Adultry by her owne confession," &c. "Fifteen stripes Severally to be laid on upon her Naked back at the Comon Whipping post."

Lambert Despar, the co-defendant, "twenty five lashes, . . . and that on the next Thursday Immediately after Lecture he stand upon the pillory for the space of one full hower with Adultry in Capitall lett^{er} written upon his brest." (Page 129.)

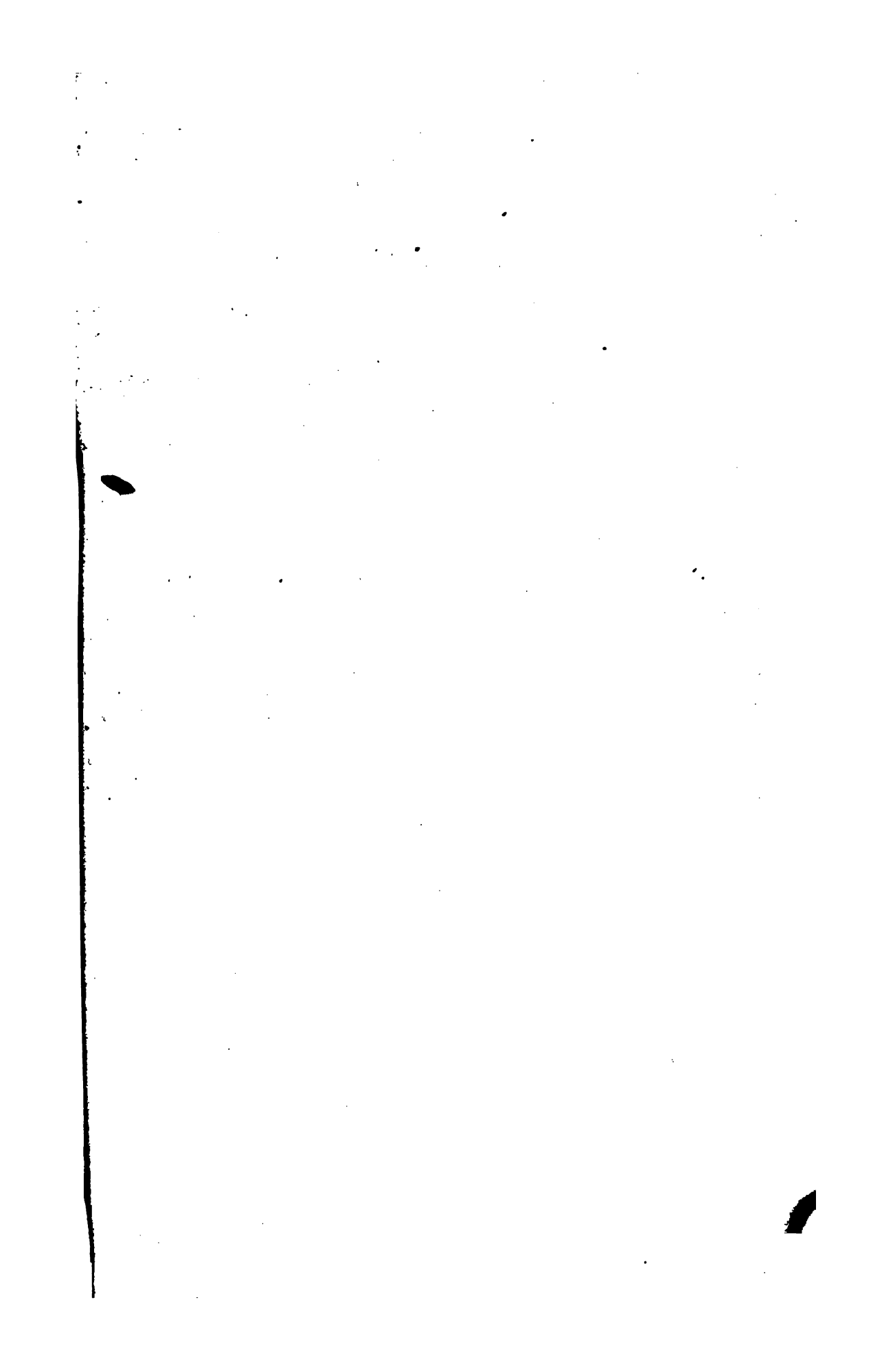
1696. William Veazey. "A Bill of Indictment was preferred and found by the Grand Jury . . . for High Misdemeanour, in open Contempt of His Maj^{ties} Royal person and Government here established," &c.

The case came on for trial 27 April, 1697. He was presented "for that the Authority of this Province Assembled in the Great and Generall Court haveing Ordered & appointed . . . a Solemn day of Thanksgiving to Almighty God for his Great Mercy in the Discovery of the late Hellish plot and Conspiracy to Assasinate his Maj^{ties} Royal person, and by the s^d Act or Order did Strictly inhibit all Servile Labour upon that day: William Veazey . . . in open contempt . . . did plow amongst his Corne"; and furthermore questioned the "Setting apart dayes of Thanksgiving and Humiliation"; and also the King's title to the Crown. He "pleaded guilty." "Ordered That he pay the Sum of Tenn Pounds Fine to the King; that he be set in the pillory in the Market place in Boston tomorrow ab^t noon, there to stand by the Space of One Howr," &c. (Vol. II. p. 75.)

1698. Francis Dormer, "having an Information drawn up against him" for "false and Scandalous words and expressions touching and concerning his Excellency Richard Earle of Bellomont," "pleaded guilty" "to this Indictment," and was sentenced to "stand in some publick place in this Towne for an howrs space on a fryday at twelve

o'clock with a paper on his breast Signifying his Crime," &c. (Vol. II. p. 202.)

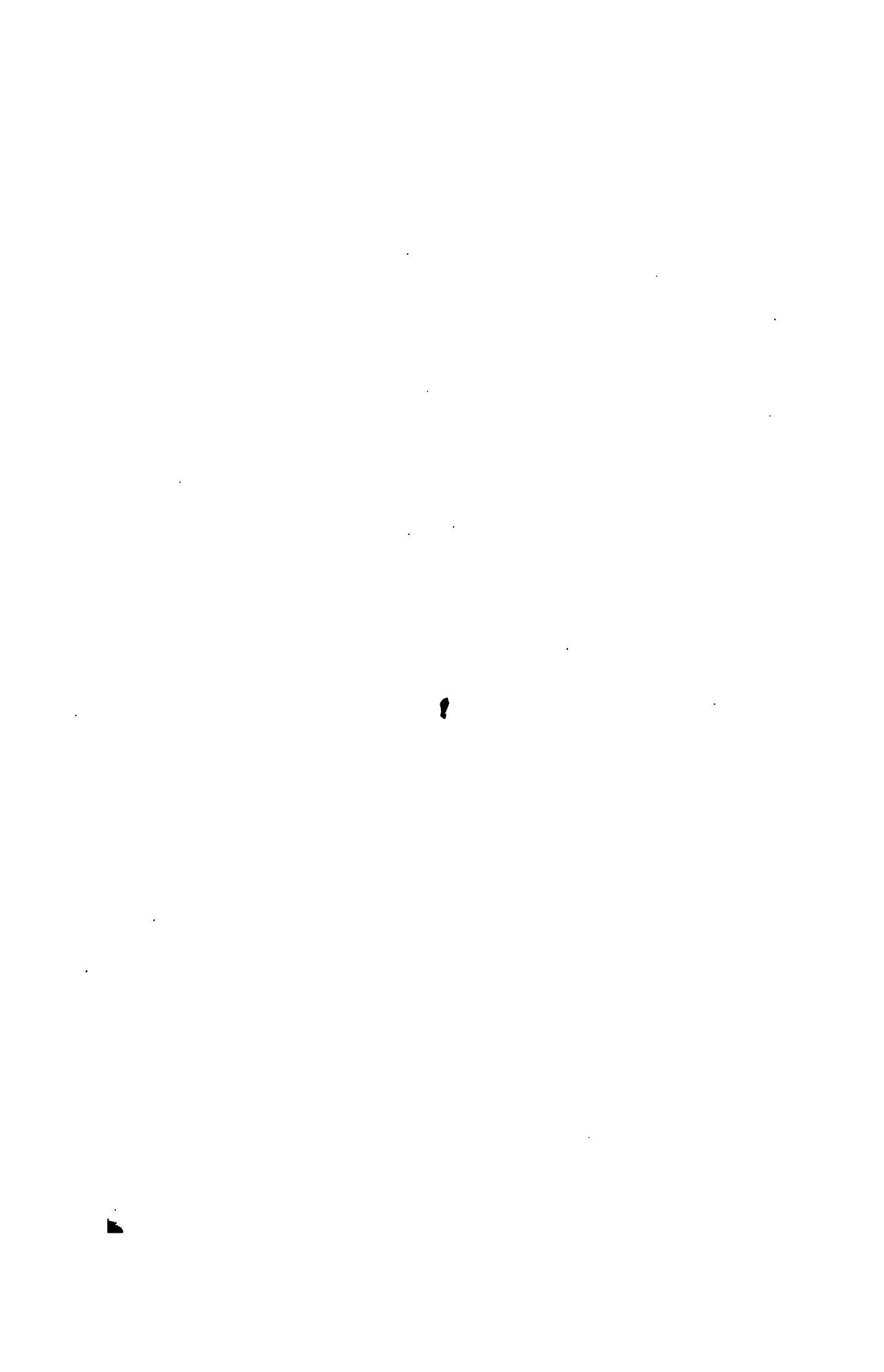
This dry list lacks, of course, all the attraction of the archaic quaintness and the dramatic interest of the full records of the cases, and is intended only as a mere skeleton.











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